

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 95-0357 CSET

**CONTROLLED SUBSTANCE EXCISE TAX
FOR TAX PERIODS: 1995**

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ISSUE

1. Controlled Substance Excise Tax: Imposition

Authority: IC 6-7-3-5, IC 6-8.1-5-1(b).

Taxpayer protests the assessment of Controlled Substance Excise Tax.

Statement of Facts

Taxpayer was arrested for possession of marijuana. The Indiana Department of Revenue issued a record of Jeopardy Finding, Jeopardy Assessment Notice and Demand on March 16, 1995 in a base tax amount of \$5232.00. Taxpayer filed a protest to the assessment. A hearing on the protest was scheduled for 11:00 a.m. on May 25, 2000. Taxpayer was notified of the hearing at his last known address. Taxpayer's attorney was also notified. Neither Taxpayer nor his attorney appeared for the hearing. Further facts will be provided as necessary.

Controlled Substance Excise Tax: Imposition

Discussion

IC 6-7-3-5 imposes the Controlled Substance Excise Tax on the possession of marijuana in the State of Indiana. Taxpayer has the burden of proving that the assessment is incorrect. IC 6-8.1-5-1(b). Since neither Taxpayer nor his attorney appeared at the hearing or offered any written information in lieu of a hearing, the Department must rely on the contents of the file in making a decision on the matter. The Police Incident Report and the Forensic Lab Report indicate that Taxpayer possessed the marijuana upon which tax was assessed. Therefore, the tax properly applies to Taxpayer in this situation.

Finding

Taxpayer's protest is denied.